

Provisions regarding appointment of Chief Financial Officer (CFO)

Governing Provisions:

1. Companies Act, 2013 and rules made thereunder (**CA, 2013**)
2. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (**SEBI LODR, 2015**)
3. SEBI (Prohibition of Insider Trading) Regulations, 2015 (**PIT Reg, 2015 or Insider Regulations**)
4. Secretarial Standards 1 & 2 (**SS-1 and SS-2**)
5. SEBI, NSE and BSE Circulars (**Circulars**)
6. MCA Notifications (**Notification**)

Sr. No.	Nature of Difference	Companies Act, 2013	SEBI LODR, Reg. 2015
1.	Definition	<p>Sec. 2(19): Chief Financial Officer</p> <p>"Chief Financial Officer" means a person appointed as the Chief Financial Officer of a company.</p> <p>Sec. 2(51): Key Managerial Personnel</p> <p>"Key Managerial Personnel", in relation to a company, means—</p> <ol style="list-style-type: none"> (i) the Chief Executive Officer or the Managing Director or the Manager; (ii) the company secretary; (iii) the whole-time director; (iv) the Chief Financial Officer; (v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and 	<p>Regulation 2(1) (f): Chief Financial Officer</p> <p>"Chief Financial Officer" means a person appointed as the Chief Financial Officer of a company;</p> <p>Regulation 2(1) (o): Key Managerial Personnel</p> <p>"Key Managerial Personnel" means key managerial personnel as defined in sub-section (51) of section 2 of the Companies Act, 2013;</p> <p>Reg. 16(1) (d): Senior Management</p> <p>"Senior Management" shall mean the officers and personnel of the listed entity who are members of its core management team, excluding the Board of Directors, and shall also comprise all the members of the management one level below the Chief Executive Officer or Managing Director or Whole Time Director or Manager (including Chief Executive Officer and Manager, in</p>

		(vi) such other officer as may be prescribed.	case they are not part of the Board of Directors) and shall specifically include the functional heads, by whatever name called and the Company Secretary and the Chief Financial Officer.
2.	Provisions regarding appointment	<p>Sec. 178(2): Nomination and Remuneration Committee</p> <p>The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance.</p> <p>Explanation.—The expression “senior management” means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.</p> <p>Sec. 203(1): Appointment of Key Managerial Personnel</p> <p>Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—</p> <p>(i) Managing director, or Chief Executive Officer or Manager and in their absence, a whole-time director;</p> <p>(ii) Company secretary; and</p> <p>(iii) Chief Financial Officer:</p> <p>Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of</p>	<p>1. Recommendation of Nomination & Remuneration Committee:</p> <p>Reg. 19(4) read with Part D Para A(6) of the Schedule II:-</p> <p>Recommend to the board, all remuneration, in whatever form, payable to senior management.</p> <p>2. Approval of the Audit Committee:</p> <p>Reg. 18(3) read with Part C Para A (19) of the Schedule II:-</p> <p>Approval of appointment of chief financial officer after assessing the qualifications, experience and background, etc. of the candidate;</p>

		<p>the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—</p> <p>(a) the articles of such a company provide otherwise; or</p> <p>(b) the company does not carry multiple businesses:</p> <p>Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.</p> <p>Rule 8 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014:</p> <p>Every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have whole-time key managerial personnel.</p>	
3.	Remuneration	<p>Sec. 178(4): Nomination and Remuneration Committee</p> <p>The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (3) ensure that—</p> <p>(a) the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;</p> <p>(b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and</p> <p>(c) remuneration to directors, key managerial personnel and senior management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals:</p>	<p>Reg. 19(4) read with Part D Para A(6) of the Schedule II:-</p> <p>Recommend to the board, all remuneration, in whatever form, payable to senior management.</p>

3.	Filling up of casual Vacancy	<p>Section 203(4): Vacancy of Key Managerial Personnel</p> <p>If the office of any whole-time key managerial personnel is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.</p>	<p>Reg.26A(2): Vacancy of Key Managerial Personnel</p> <p>Any vacancy in the office of the Chief Financial Officer shall be filled by the listed entity at the earliest and in any case not later than three months from the date of such vacancy:</p> <p>Provided that the listed entity shall not fill such vacancy by appointing a person in interim capacity, unless such appointment is made in accordance with the laws applicable in case of a fresh appointment to such office and the obligations under such laws are made applicable to such person.]</p>
4.	Register / Entry in System to be maintained	<p>Section 189: Register of Contracts or Arrangements in Which Directors are interested</p> <p>Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section (1) of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.</p> <p>Rule 16 of the Companies (Meetings of Board and its Powers) Rules, 2014:</p> <p>Every company shall maintain one or more registers in Form MBP 4, and shall enter therein the particulars of-</p> <p>(a) Company or companies or bodies corporate, firms or other association of individuals, in which any director has any concern or interest, as mentioned under sub-section (1) of section 184:</p> <p>Provided that the particulars of the company or companies or bodies corporate in which a director himself together with any other director holds two percent. or less of the</p>	<p>Reg. 3(5) & (6) of PIT Reg 2015: Structured Digital Database</p> <p>The board of directors or head(s) of the organization of every person required to handle unpublished price sensitive information shall ensure that a structured digital database is maintained containing the nature of unpublished price sensitive information and the names of such persons who have shared the information and also the names of such persons with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such database shall not be outsourced and shall be maintained internally with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.</p> <p>The board of directors or head(s) of the organization of every person required to handle unpublished price sensitive information shall ensure that the structured digital database is preserved for a period of not less than eight years after completion of the relevant transactions and in the event of receipt of any information from the Board regarding any investigation or enforcement proceedings, the relevant information in the structured digital database shall be preserved till the completion of such proceedings.</p>

		<p>paid-up share capital would not be required to be entered in the register;</p> <p>(b) contracts or arrangements with a body corporate or firm or other entity as mentioned under sub-section (2) of section 184, in which any director is, directly or indirectly, concerned or interested; and</p> <p>(c) Contracts or arrangements with a related party with respect to transactions to which section 188 applies.</p> <p>Sec. 170: Register of Directors and key Managerial Personnel and their Shareholding</p> <p>Every company shall keep at its registered office a register containing such particulars of its directors and key managerial personnel as may be prescribed, which shall include the details of securities held by each of them in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.</p> <p>Rule 17 of Companies (Appointment and Qualifications of Directors) Rules, 2014.</p>	<p>NSE and BSE Circulars:</p> <p><i>The listed entities are advised to take a note that the listed entities to whom the provisions of Regulation 24A of SEBI(LODR) Regulations, 2015 are not applicable, are required to continue to submit SDD Compliance certificate on quarterly basis, within 21 days from end of each quarter.</i></p>
5.	Disclosure(s) required	<ol style="list-style-type: none"> 1. Consent 2. Disclosure of Interest/Concern (No specified format, however generally use the form MBP-1) 3. List of deemed Relatives 	<ol style="list-style-type: none"> 1. Form- A [Reg 7 (1) (b) & reg. 6(2) of PIT Reg. 2015] 2. Disclosure by Designated Person- Reg. 9 read with Sch. B of PIT Reg. 2015[Annually] 3. Code of Conduct -Reg 25(3) of LODR. 2015. [Annually]

Notes:

- In case of **Government Company** - Section 170 shall not apply to Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments. - **Notification dated 5th June, 2015.**
- In case of **Specified IFSC Public and Private Companies** in Sub-section (2) of section 170 for the words “thirty days” at both places read as “sixty days”. - **Notification Dated 4th January 2017.**
- In case of **Section 8 Company** - Section 170 shall not apply. - **Notification dated 5th June, 2015.**
- In case of **Government Companies**: Provisions in Sub-section (2) (3) & (4) of section 178 shall not apply except with regard to appointment of 'senior management' and other employees”. - **Notification Dated 5th June, 2015.**
- In case of **Specified IFSC Public Companies** - Section 178 shall not apply. - **Notification dated 4th January 2017.**

Procedure for Appointment of CFO

Step-1: Convening Nomination and Remuneration Committee (NRC) Meeting:

Hold a Nomination and Remuneration Committee Meeting and recommend the remuneration, after the assessment of background of the candidate to Audit Committee and Board of Directors.

Ref: Section 173 & 174 read with SS-1 and Reg. 19 of LODR, Reg. 2015

Step-2: Convening Audit Committee (AC) Meeting:

Hold an Audit Committee Meeting and approve the appointment of CFO, after assessing the qualifications, experience and background of candidate recommended by NRC to Board of Directors.

Ref: Section 173 & 174 read with SS-1 and Reg. 18 of LODR, Reg. 2015

Step-3: Issue notice of Board Meeting:

A Notice for convening BoD meeting shall be issued to all directors and invitee(s), if any, by the Company.

Ref: Section 173& 174 read with SS-1 and Reg. 17 of LODR, Reg. 2015

Step-4: Intimation of Closure of Trading Window: [Pdf mode]

The Company is required to intimate the Stock Exchange(s) regarding the closure of trading window.

Ref: Reg 9 read with Schedule B of PIT Regulations 2015

Step-5: Intimation of Closure of Trading Window: [XBRL mode]

The Company has to submit XBRL utility file, with Stock Exchange(s), within 24 hours from submission in pdf mode.

BSE Circular dated 08.12.2023:- <https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20231208-34>

NSE Circular dated 08.12.2023:- <https://nsearchives.nseindia.com/web/sites/default/files/inline-files/NSE%20Circular-%20Filing%20of%20Announcements%20pertaining%20to%20Loss%20and%20Duplicate%20Share%20Certificate%2C%20Trading%20Window%2C%20CIRP%20in%20XBRL%20format%20on%20NEAPS%201.pdf>

Step-6: Entry in SDD maintained with Designated Depository (NSDL/CDSL):

The Company is required to update the details including closing and opening date of trading window in SDD system maintained with Designated Depository.

Ref: Reg 3(5) & (6) of PIT Regulations read with Stock Exchanges circulars

BSE Master Circular dated 30.06.2023:- <https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20230630-12>

NSE Circular dated 05.07.2023:- https://nsearchives.nseindia.com/web/sites/default/files/inlinefiles/NSE_CIRCULAR_05072023_EQUITY.zip

Step-7: Hold Board Meeting:

The Company will hold BoD Meeting and approve the appointment of CFO.

Ref: Sec. 173, 174 & rules made under Companies Act, 2013 read with Reg. 17 of SEBI LODR, Reg. 2015.

Step-8: Submission of Outcome of BoD Meeting: [Pdf Mode]

The Company has to submit the outcome of Board Meeting with the Stock Exchange(s), within 30 minutes from conclusion of Board Meeting.

Ref: Reg. 30 read with Stock Exchanges circulars

BSE Master Circular dated 30.06.2023:- <https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20230630-12>

NSE Circular dated 05.07.2023:- https://nsearchives.nseindia.com/web/sites/default/files/inlinefiles/NSE_CIRCULAR_05072023_EQUITY.zip

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Step-09: Submission of disclosure regarding appointment of CFO (Change in KMP): [XBRL mode]

The Company has to submit XBRL utility file, with Stock Exchange(s), within 24 hours from submission in pdf mode.

Ref: Reg. 30 read with Stock Exchanges circulars

BSE Master Circular dated 30.06.2023:- <https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20230630-12>

NSE Circular dated 05.07.2023:- https://nsearchives.nseindia.com/web/sites/default/files/inlinefiles/NSE_CIRCULAR_05072023_EQUITY.zip

Step-10: Filing of e-form MGT-14: [Pdf mode]

The Company has to file e form MGT-14 (Resolution pursuant to section 179), with Registrar of Companies (ROC), within 30 days of BoD Meeting.

Ref: Section 117 read with Rule 24 of the Companies (Management and Administration) Rules, 2014

Step-11: Filing of e-form DIR-12 regarding appointment of CFO: [Pdf mode]

The Company has to file e-form DIR-12, with Registrar of Companies (ROC), within 30 days of BoD Meeting.

Ref: Section 179 & 203 read with Rule 24 of the Companies (Management and Administration) Rules, 2014

Thank you so much for your support & *Sharing is Caring always...*
Shree Radhe Krishna...

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